



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,749	07/15/2003	Andrew W. Elder	9891.21US01	7404
23552	7590	11/16/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			LHYMN, EUGENE	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/619,749	ELDER ET AL.	
	Examiner	Art Unit	
	Eugene Lhymn	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/17/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 11, 13, 14, and 18 recite the limitation "the cap." There is insufficient antecedent basis for this limitation in the claim. "Cap" should be REPLACED with "cover" in all instances. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 4, 7-8, 10-14, 17-18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bazany (US 5638983). With respect to claim 1, Bazany discloses the following:

- A base (Fig. 1)
- A cover (Fig. 1)
- A sidewall comprising a corrugated sidewall setting onto the base and receiving the cap, wherein the corrugated wall defines a plurality of openings extending along the length of the wall (Fig. 2), and wherein at least one of the openings includes a reinforcing member inserted therein (Fig. 2, item 32)

With respect to claim 2, Bazany discloses the openings extending vertically (Fig. 2).

With respect to claim 4, Bazany discloses the sidewall comprising a first and second corrugated wall, as shown in Fig. 1, wherein any two of the sidewalls 18 are the first and second corrugated wall.

With respect to claim 7, Bazany discloses the container comprising a plurality of reinforcing members, each of the reinforcing members being inserted into an opening (Fig. 2, item 32, & Col. 2, Lines 45-52).

With respect to claim 8, Bazany discloses the reinforcing members being spaced apart.

With respect to claim 10, Bazany discloses the base comprising a stackable pallet, as shown in Fig. 1.

With respect to claim 11, Bazany discloses sidewall, cover, and base forming an enclosed space, as shown in Fig. 1.

With respect to claim 12, Bazany discloses the sidewall forming a rectangular periphery.

With respect to claim 13, Bazany discloses the base and cover being configured to nest, wherein the base and cover are designed such that nesting is clearly possible and furthermore feasible.

With respect to claim 14, Bazany discloses the cover and base including support portions engaging an outer portion of the sidewall, as shown in Fig. 1, wherein the support portions are the flange-like lips on the outermost portion of the cover and base.

With respect to claim 17, Bazany discloses a plurality of planar portions joined in edge-to-edge relation, wherein each of the planar portions defines a plurality of parallel openings extending therealong, as shown in Fig.'s 1 & 2.

With respect to claim 18, Bazany discloses a container system comprising the following:

- A base
- A cover
- Interchangeable sidewalls setting onto the base and receiving the cover, including the following:
 - A first sidewall comprising a corrugated wall wherein the corrugated wall defines a plurality of openings extending along the wall, and wherein at least one of the openings includes a reinforcing member inserted therein (Fig's 1 & 2)
 - A second sidewall comprising a first corrugated wall portion defining a plurality of vertically extending openings along the first wall portion, and wherein at least one of the vertically extending openings includes a reinforcing member inserted therein; and a second corrugated wall portion (Fig.'s 1 & 2)

With respect to claim 20, Bazany discloses the first and second sidewalls comprising corrugated plastic.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 5-6, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazany in view of Bradford et al. (US 5908135). With respect to claim 3, Bazany discloses the claimed invention except for the openings extending horizontally, wherein Bazany discloses only vertical openings. However, Bradford et al. teaches a container system having horizontal AND vertical corrugations on the container sidewalls, as shown in Fig. 1. Moreover, Bradford et al. teaches the benefit and utility, and thus motivation, of having vertical AND horizontal corrugations in a container sidewall in Col. 5, Lines 48-56, specifically to enhance side impact resistance and vertical stacking strength. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to configure a sidewall of Bazany to be horizontally corrugated in addition to existing vertical corrugations, as taught by Bradford et al. so as to enhance the structural integrity of the container system.

With respect to claim 5, Bazany, as modified above, teaches at least one of the vertical or horizontal openings including a reinforcing member inserted therein, as shown in Fig. 2, item 32.

With respect to claims 6 and 19, Bazany, as modified above to have vertical AND horizontal corrugations, teaches inserting reinforcing members into the flutes of the corrugated sidewalls, as shown in Fig. 2, item 32, wherein the vertical AND horizontal flutes would have reinforcing members inserted therein.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bazany in view of Kupersmit (US 4946036). With respect to the claim, Bazany discloses the claimed invention except for the sidewall including a door. However, Kupersmit teaches a container system having a sidewall including a door (Fig. 2). Having a door allows easy access to the interior of the container. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add a door to the sidewall of Bazany as taught by Kupersmit so as to allow easy access to the interior of the container.

8. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bazany in view of Darby (US 5722328). With respect to claims 15 and 16, Bazany discloses the claimed invention except for the base defining a channel and the cover defining a channel, respectively. However, Darby teaches a container system wherein the base and cover include a channel structure for receiving the container sidewalls as

shown in Fig. 7 & Col. 10, Lines 60-67. Having receiving channels on the cover and base provides a secure sidewall engagement feature. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add receiving channels to the cover and base of Bazany as taught by Darby so as to provide a secure sidewall engagement feature.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Guth (US 3997072)

Blanchard (US 1696341)

Numata et al. (US 3994399)

Mills et al. (US 6056840)

Fu et al. (US 5564589)

Stolzman (US 6021916)

Nakane (US 3973721)

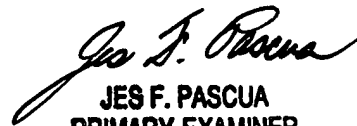
Witzgall (US 3378164)

Rinkewich (US 4549672)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lhymn whose telephone number is 571-272-8712. The examiner can normally be reached on MTWThF 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JES F. PASCUA
PRIMARY EXAMINER